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cgpls) 2826/07

समक्ष श्रीमान् म0प्र0 राज्य प्रशासनिक अधिकरण बेंच रायपुर (म.प्र.)

याचिका क्रमांक .226/98..

आवेदक ---------- सुरेन्द्र कुमार मारकन्डेय आत्मज स्व. श्रीरामप्रसाद मारकन्डेय, भृत्य पूर्व माध्यमिक शाला जाटादाह विकास खंड डौंडी जिला-दुर्ग (म.प्र.)

विरूद्ध

अनावेदक ---------- (1) म.प्र. शासन
द्वारा- सचिव, आदिम जाति, अनुसूचित जाति कल्याण विभाग वल्लभ भवन भोपाल
(2) आयुक्त, आदिवासी विकास म.प्र. भोपाल
(3) कलेक्टर, दुर्ग (म.प्र.)
(4) सहायक आयुक्त, आदिवासी विकास दुर्ग म.प्र.
(5) विकास खंड शिक्षा अधिकारी, डौंडी जिला-दुर्ग (म.प्र.)

आवेदन पत्र धारा राज्य प्रशासनिक अधिकरण अधिनियम 1985 :-

(1) आवेदक का नाम एंव पता :- उपरोक्त दर्शाये अनुसार
(2) अनावेदक का नाम एंव पता:- उपरोक्त दर्शाये अनुसार
(3) -1. आदेश क्रमांक/आ.जा.क./8/शिक्षा-स्था./485/98 (अनेक्सर ए-2)

(4) -2. दिनांक 29-5-98

(3)-3. आदेश पारित- सहायक आयुक्त, आदिवासी विकास दुर्ग (म.प्र.)

(3)-4. संक्षिप्त विषयवस्तु- आवेदक की योग्यतानुसार अनुकम्पा नियुक्ति का न किया जाना ।

क्रमशः- 2 -

(1039)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P. (S) No. 2826 of 2005

Petitioner : Surendra Kumar Markadey

Versus

Respondent : State of M.P. (Now Chhattisgarh) & others

Shri M. K. Sinha, Advocate for the petitioner.

Smt. Anju Ahuja, Govt. Advocate for the respondents.

ORDER

(Passed on this 12th day of December, 2006)

1. The father of the petitioner namely Shri Ram Prasad Markandey was working as Peon in the office of the respondent No.4 Assistant Commissioner, Tribal Development, Durg, when he died on 30.1.1993 in harness. The petitioner, being dependent legal heir of the deceased employee sought for compassionate appointment.
2. The Assistant Commissioner, Tribal Development, Durg after having considered the facts of the case, particularly the penurious condition of the deceased appointed the petitioner vide order dated 29.5.1998 (Annexure A/2) on the post of Peon, on regular basis, in the pay scale of Rs. 2550-55-2660.
3. The petitioner has filed this petition seeking a direction to the respondents that in view of the qualification possessed by the petitioner, he be appointed on the post of Lower Division Clerk (L.D.C.).

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4. Be that as it may, the compassionate appointment is not granted as a matter of right but this is to provide succor to family to tide over financial crisis.

5. It is well settled that the appointment on compassionate ground is not a method of recruitment, but, is a facility to provide for immediate rehabilitation of the family in distress for relieving the dependent family members of the deceased employee from destitution. In other words, the object of compassionate appointment is to enable penurious family to tide over the sudden financial crisis and is not to provide employment. It is also well settled that mere death of the employee does not entitle his family to claim compassionate appointment if the family members could sustain themselves financially from other sources of income.

6. In **Haryana State Electricity Board and another Vs. Hakim Singh** { (1997) 8 SCC 85 } the Supreme Court held that "the whole object of any compassionate appointment scheme is to give succor to the family to tide over the sudden financial crisis befallen the dependents on account of the untimely demise of its sole earning member."

7. The Supreme Court in the case of **State of J & K and others Vs. Sajad Ahmd Mir** { (2006) 5 S.C.C. 766 }, in para 11 has held as under :-

> "11.....it is that such an appointment is an exception to the general rule. Normally, an employment in the Government or other public sectors should be open to all eligible candidates who can come forward to apply and compete with each other. It is in consonance with Article 14 of the Constitution. On the basis of competitive merits, an appointment should be made to public office. This general rule should not be departed from except where compelling circumstances demand, such as, death of the sole breadwinner and likelihood of the family

suffering because of the setback. Once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no necessity to say "goodbye" to the normal rule of appointment and to show favour to one at the cost of the interests of several others ignoring the mandate of Article 14 of the Constitution."

8. In view of the above settled principles of law there is no merit in this petition. The petition is accordingly dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur